

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Reclassification of License of
Station KOVE-FM, Galveston, Texas

RM-11084

ORDER TO SHOW CAUSE

Adopted: August 17, 2005

Released: August 19, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a petition for rule making filed by Katherine Pyeatt ("Petitioner") seeking to amend the FM Table of Allotments by allotting Channel 291C3 at Matagorda, Texas,¹ as the community's second local service.² To accommodate the allotment, Petitioner requests that Station KOVE-FM at Galveston, Texas, be reclassified as a Class C0 facility because it is operating below minimum Class C facilities.³ Petitioner has also certified, as required, that no alternative channel is available for the proposed service.⁴

2. Station KOVE-FM, licensed to Univision Radio License Corp. ("Univision"), currently operates on Channel 293C with an effective radiated power ("ERP") of 100 kilowatts ("kW") at 403 meters height above average terrain (HAAT), which is below the minimum Class C antenna height of at least 451 meters HAAT with 100 kW ERP. If Station KOVE-FM is reclassified as a Class C0 facility, then short-spacing between Station KOVE-FM and the proposed use of Channel 291C3 at the proposed site would be eliminated. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to the licensee of Station KOVE-FM, Galveston, Texas, to show cause why its facilities should not be reclassified.

3. Pursuant to the reclassification procedures set forth in the *Second Report and Order*, *supra*, and note 2 of Section 1.420 (g) of the Commission's rules, a petitioner may initiate the reclassification of a Class C FM station to a Class C0 station through the filing of an original petition for amendment of the FM Table of Allotments. In those instances in which a triggering petition proposes an amendment or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an *Order to Show Cause* as set forth in Note 4 to Section 73.3573, and a Notice of Proposed Rule Making will be issued only after the reclassification issue is resolved. In order to comply with the foregoing reclassification procedures, it is first necessary to issue this *Order to Show Cause* directed to Univision to show cause why Station KOVE-FM's license should not be modified to

¹ The proposed coordinates for Channel 291C3 at Matagorda, Texas are 28-44-53 North Latitude and 95-48-41 West Longitude with a site restriction of 16.5 kilometers (10.3 miles) northeast of the community.

² A Notice of Proposed Rule Making has been issued for a proposal to allot Channel 252A at Matagorda, Texas, as the community's first local service. See *Boligee, Alabama, et al.*, 19 FCC Rcd 10095 (MB 2004).

³ See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, 15 FCC Rcd 21,649 (2000) ("*Second Report and Order*"); 47 C.F.R. §§ 73.3573, n.4 and 1.420(g), n.2.

⁴ See 47 C.F.R. §§ 73.3573, n.4 and 1.420(g), n.2. See also *Second Report and Order*, 15 FCC Rcd at 21,662, ¶ 26.

specify operation on Channel 293C0 in lieu of Channel 293C at Galveston. Section 316(a) of the Communications Act of 1934, as amended,⁵ permits us to modify a license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected stations of the proposed action, the public interest reasons for the action, and afford at least 30 days to respond. This procedure is now set forth in Section 1.87 of the Commission's rules.⁶ In this instance, the reclassification of Station KOVE-FM as a Class C0 station at Galveston, Texas, will accommodate the allotment of Channel 291C3 at Matagorda, Texas, as proposed by Petitioner. We consider the provision of an additional local service at Matagorda, Texas, to have sufficient public interest benefits to justify the issuance of a show cause order.

4. The license of Station KOVE-FM at Galveston, Texas, can be modified to allow the reclassification of Channel 293C to Channel 293C0 at its currently authorized transmitter site.⁷

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Univision Radio License Corp., licensee of Station KOVE-FM, Galveston, Texas, SHALL SHOW CAUSE why its license should not be modified to specify operation as a Class C0 station on Channel 293C0, Galveston, Texas.

6. Pursuant to Section 1.87 of the Commission's rules, Univision may, no later than, October 3, 2005, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. The Commission may call upon the licensee to furnish additional information. If the licensee raises a substantial and material question of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the licensee will be deemed to have consented to a modification as proposed in this *Order to Show Cause* and a final *Order* will be issued if the modification is found to be in the public interest. If Univision chooses to seek authority to modify Station KOVE-FM's facilities, an acceptable application for a construction permit to increase the antenna height of at least 451 meters HAAT and 100 kW ERP or the equivalent must be on file with the Commission within 180 days subsequent to the show cause response due date, October 3, 2005.

7. IT IS FURTHER ORDERED, That a copy of this *Order to Show Cause* shall be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the licensee and its counsel:

Robert V. Cahill, Chairman
Univision Radio License Corp.
Licensee of Station KOVE-FM
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⁵ 47 U.S.C. § 316(a).

⁶ 47 C.F.R. § 1.87. *See Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327 (1987).

⁷ The reference coordinates for Channel 293C at Galveston are 29-18-00 North Latitude and 95-06-40 West Longitude.

8. For further information on this proceeding, contact Helen McLean, Media Bureau (202) 418-2738.

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Assistant Chief
Audio Division
Media Bureau**